

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

WELTONIA HARRIS,

Plaintiff(s),

v.

U.S. PHYSICAL THERAPY, INC.,

Defendant(s).

2:10-CV-1508 JCM (VCF)

**ORDER**

Presently before the court is Magistrate Judge Ferenbach's report and recommendation that plaintiff Weltonia Harris' motion for final approval of class action settlement and related orders (doc. # 61) be granted. (Doc. # 63). No objections to the report and recommendation have been filed.

This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)©. Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made." *Id.*

Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district

1 court when reviewing a report and recommendation to which no objects were made); *see also*  
2 *Schmidt v. Johnstone*, 263 F.Supp.2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s  
3 decision in *Reyna-Tapia* as adopting the view that district courts are not required to review “any  
4 issue that is not the subject of an objection.”). Thus, if there is no objection to a magistrate judge’s  
5 recommendation, then this court may accept the recommendation without review. *See, e.g.,*  
6 *Johnstone*, 263 F.Supp.2d at 1226 (accepting, without review, a magistrate judge’s recommendation  
7 to which no object was filed).

8 Nevertheless, this court finds it appropriate to engage in a de novo review to determine  
9 whether to adopt the recommendation of the magistrate judge. Upon reviewing plaintiff’s motion  
10 seeking final approval (doc. # 61), and the comprehensive report and recommendation (doc. # 63),  
11 this court finds good cause to adopt the magistrate judge’s findings in full.

12 Accordingly,

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the report and  
14 recommendation of Magistrate Judge Ferenbach granting plaintiff’s motion for final approval of  
15 class action settlement and related orders (doc. # 61) be, and the same hereby is, ADOPTED in its  
16 entirety.

17 IT IS FURTHER ORDERED that plaintiff Weltonia Harris’ motion for final approval of  
18 class action settlement and related orders (doc. # 61) be, and the same hereby is, GRANTED.

19 IT IS FURTHER ORDERED that:

20 (1) A class consisting of the 47 class members proposed by plaintiff be, and the same hereby  
21 is, certified;

22 (2) The settlement agreement be, and the same hereby is, approved;

23 (3) The class counsel implement the settlement by mailing the settlement checks to the  
24 class members in accordance with the settlement agreement;

25 (4) If any funds remain uncollected after one (1) year from the date of the court’s order, the  
26 plaintiff file a motion for further disposition of the remaining funds to charity through *cy pres*  
27  
28

1 proposal;

2 (5) Defendants pay class counsel the sum of \$85,977.50 for reasonable and necessary  
3 attorneys' fees and the sum of class counsel's reasonable expenses, not to exceed \$4,000, to  
4 be

5 calculated after the completion of the mailing of the settlement payments to class members;

6 (6) Defendants pay plaintiff Harris the sum of \$1,500.00; and

7 (7) All claims asserted by plaintiff Harris and the class be, and the same hereby are,  
8 dismissed with prejudice.

9 DATED January 18, 2013.

10  
11   
12 UNITED STATES DISTRICT JUDGE